

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 18514 of 1995

Between:

S. Muniratnam Naidu, S/o. Buchi Naidu
R/o. 6-7-581, K.T. Road, Sripuram Colony, Tirupati, Chittoor Dist.

..... PETITIONER

AND

- 1 The Commissioner for Survey and Settlements,
A.P. Hyderabad.
- 2 The Dist. Collector, Chittoor, Chittoor Dist.
- 3 The Revenue Divisional Officer, Chittoor, Chittoor Dist.,
- 4 The Mandal Revenue Officer, Narayanavanam Mandal,
Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus by calling for the records from the respondents in CCS and LR's No. P3/995/83, dt: 18.1.95 and declare the action of the 1st respondent in disallowing the petitioners claim for Ac.5.00 cents in P.No. 183 correlated to S.No. 264 out of Keelagaram Village, Narayanavanam Mandal, Chittoor District, as illegal, and void;

Counsel for the Petitioner: MR.Y.NARASIMHA REDDY

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition has been filed by the petitioner seeking a direction to call for the records from the respondents in CCs and LR's No.P3/995/83, dated 18-1-1995 and declare the action of the 1st respondent in disallowing the petitioner's claim for Ac.5-00 cents in P.No.187 correlated to S.No.264 out of Keelagaram village, Narayanavanam Mandal, Chittoor District as illegal and void.

The back ground facts leading to filing of this writ petition are briefly noted as under:

The petitioner inherited Ac.6-00 cents in P.No.183 correlated to S.No.104 situated in Keelagaram village through his ancestors. Subsequently he purchased Ac.3-50 cents under patta No.263 in P.No.183 correlated to S.No.263 and 264 from one Gangamma and Bojjamma. Since then, he and his ancestors have been in possession and enjoyment of the same. After conducting enquiry, the Settlement Officer, Nellore granted patta to the said lands. Thereupon, the District Collector has challenged the said order before the Director of Settlements, who in turn while initiating proceedings under Section 5 of the E.A. Act, confirmed the orders of the Settlement Officer. Aggrieved by the same, the 2nd respondent preferred further revision under section 7 of the E.A. Act before the 1st respondent who disallowed the claim of the petitioner in respect of Ac.5.00 cents of land. Having aggrieved by the same, the present writ petition has been preferred by the petitioner.

Heard the learned counsel on either side.

It is contended by the learned counsel for the petitioner that the father of the vendors

of the petitioner was granted patta and was inducted in possession of the land admeasuring Ac.5.00 in patta No:183 correlated to S.No:264 even prior to the notified date i.e., 1.7.1945, but the 1st respondent committed error in holding that the father of the vendors of the petitioner was not inducted into possession of the property in question and therefore, the order impugned is passed without appreciation of the material on record and as such, the same is liable to be quashed.

On the other hand, it is submitted by the learned Government Pleader for Revenue that since there is no material available on record as to the induction of one Toti Nainigadu, who is the father of the vendor of the petitioner's ancestors, into possession of the land, the order of the 1st respondent does not call for any interference by this Court.

I have perused the entire material available on record and the order impugned.

The Settlement Officer granted patta in favour of the petitioner in respect of the land of Ac.6.00 in S.No.104 of Arnyan Kandriga village and also Ac.5.00 in forest belt area adjacent to S.No.41 of Keelagaram village. Aggrieved by the same, the matter was carried before the Director of Settlements.

The Director of Settlements having observed that the lands in question claimed by the petitioner under patta Nos.182 and 183 are paimash accounts for 1354 F, 1358F and 1361F and they are ryoti lands and the lands in question are the patta lands of the petitioner's ancestors and the vendors and the counter filed by the Tahsildar does not go to show that the lands in question are forest lands, there is no reason to disbelieve the documentary evidence adduced by the petitioner, confirmed the orders of the settlement Officer. Having aggrieved by the same, the 2nd respondent has preferred a revision before the 1st respondent. While considering the material available on record in considering the revision petition, the 1st respondent having observed that the Adangal 1354 F. which is a pre abolition record, reveals the name of P.Veeraswamy as pattadar who sold the land in an extent of Ac.5.33 in P.No.183 corresponding to R.S.No.104 P to Sri S.Subba Naidu ie., grand father of the writ petitioner through sale deed dated 20-09-1996 and the sale deed dated 16-03-1970 to an extent of Ac.3.50 in P.No.183 adjoining to R.S.No.41 of Keelagaram village reveals the same was purchased by the respondent's grand father from the daughter (Gangamma) of Toti Nainigadu who is

said to be pattadar, found that there is no pre-abolition record to show the induction of Sri Toti Nainigadu into the land prior to 01-07145 by the land holder.

In the facts and circumstances of the case, it is apparent that the ancestors of the petitioner have purchased the lands in question. But, the claim of the petitioner has been rejected solely on the ground that there is no pre abolition record to show as to whether the said Thoti Nainigadu has been inducted into possession of the land in question. Therefore, I am of the opinion that this issue has not been decided on its own merits, but the same was decided as a chance in the absence of the pre abolition record. Therefore, without expressing any opinion on the merits of the case, it would suffice if the matter is remitted back to the 1st respondent to decide the issue in the light of the material available on record after affording an opportunity to both the parties.

Accordingly, this writ petition is allowed and the order impugned is set aside. However, the matter is remitted back to the 1st respondent for fresh consideration on the issue involved in this writ petition after affording an opportunity to both the parties, and the 1st respondent is directed to dispose of the same in accordance with law within a period of three (3) months from the date of receipt of copy of this order.

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16-12-2004

Note:

Furnish CC by two weeks.

(b/o)

rkk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this, Thursday, the sixteenth day of December, Two thousand and four.

ASSISTANT REGISTRAR

To

- 1 The Commissioner for Survey and Settlements,
A.P. Hyderabad.
- 2 The Dist. Collector, Chittoor, Chittoor Dist.
- 3 The Revenue Divisional Officer, Chittoor, Chittoor Dist.,
- 4 The Mandal Revenue Officer, Narayanavanam Mandal,
Chittoor District.
- 5 Two CCs to GP for Revenue, High Court buildings, Hyderabad
(Two CD copies)
- 6 Two CD copies.